

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 30, 2004

IN RE:

**PETITION FOR APPROVAL OF THE
AMENDMENT TO THE INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
MOMENTUM BUSINESS SOLUTIONS, INC.**

**DOCKET NO.
04-00315**

**ORDER APPROVING
FOURTH AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 8, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fourth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Momentum Business Solutions, Inc.¹

The original interconnection agreement between these parties was filed on June 12, 2002, and was assigned Docket No. 02-00695. It was approved at a regularly scheduled Authority Conference on August 5, 2002. The first amendment was filed on May 21, 2003, under Docket No. 03-00359 and was approved at a regularly scheduled Authority Conference on July 21, 2003. The second amendment was filed on November 7, 2003, under Docket No. 03-00594 and was

¹ On April 28, 2004, in Docket No. 04-00007 the Authority issued an *Order Granting Approval of the Petition of Momentum Business Solutions, Inc. for Name Change* granting approval to Momentum Business Solutions, Inc. to change its name to Momentum Telecom, Inc.

approved at a regularly scheduled Authority Conference on December 15, 2003. The third amendment was filed on June 18, 2004, under Docket No. 04-00178 and was approved at a regularly scheduled Authority Conference on August 9, 2004. The fourth amendment, which is the subject of this docket, was filed on September 28, 2004.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

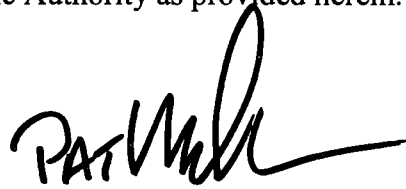
- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104 (2004).
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within BellSouth Telecommunications, Inc.'s service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).² Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

² See 47 U.S.C. § 252(e)(2)(B)

- 5) No person or entity has sought to intervene in this docket.
- 6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104 (2004).

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the fourth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Momentum Business Solutions, Inc. is approved and is subject to the review of the Authority as provided herein.



Pat Miller, Chairman



Deborah Taylor Tate, Director



Ron Jones, Director